

## NOTICE OF MOTION

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKDOC #  
XBEN SONG  
USPS Clerk

Plaintiff,

-against-  
John E. Potter  
Postmaster general, USPS New York metro.

Defendants.

## NOTICE OF MOTION

05 Civ. 8132 (LAK) (THK)  
06 Civ 904 (LAK) (THK)**MEMO ENDORSED**

SIRS:

PLEASE TAKE NOTICE that upon the annexed affidavit or affirmation of BEN SONG, sworn to or affirmed 07/11, 2007 and upon the complaint herein, plaintiff will move this Court, LEWIS A. KAPLAN, U.S.D.J., in room 120, United States Courthouse, New York, New York 10007, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ or as soon thereafter as counsel can be heard, for an order pursuant to rule \_\_\_\_\_ of the Federal Rules of Civil Procedure granting:

I want to have a motion to compel the defendant to present the necessary documents to me or to this Court (if the documents is confidential to me). Such documents includes (1) The W-2 forms or PS Form 1-233-B of the clerks in my post office, or any kind annual statistical information about the wage work hours, overtime of work of every clerk in LBPo from 1997 to 2005 (2) All the 3917 forms or disciplinary action record filed in accordance by Mr. Clean Prekopa to clerks in LBPo, when Mr. G. Prekopa was a delin supervisor in LBPo.

Dated: 07/11/2007

Motion denied. It was filed untimely, after discovery had been completed. Moreover, it raises issues previously addressed by the court, is overbroad, and seeks information which has little or no relevance to Plaintiff's claims.

**SO ORDERED**1/17/08Theodore H. Katz

UNITED STATES MAGISTRATE JUDGE

**MEMO ENDORSED**

AD PRO SE OFFICE  
1/17/08  
COPIES MAILED TO COUNSEL OF RECORD ON

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

X

BZN SONG  
USPS Clerk

Plaintiff,

-against-

John Z. Porter  
Postmaster general, USPS New York metro

Defendants.

X

## AFFIDAVIT/AFFIRMATION

05 Civ. 8132 (LAK) (THK)  
06 Civ 904 (LAK) (THK)

STATE OF NEW YORK )  
COUNTY OF ) SS. :

I, BZN SONG, [being duly sworn] deposes and says [or: makes the following affirmation under the penalties of perjury]:

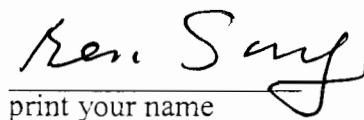
I, BZN SONG, am plaintiff in the above entitled action, and respectfully move this Court to issue an order to compel the defendant to present the necessary documents to me in court. The reason why I am entitled to the relief I seek is the following: such documents include ① the W-2 forms, or the earnings statements (PS form 1323-B) on any kind annual statistical information about wage withholdings, overtime work hours of each clerk in Long Beach Post Office (LBPO) from 1997 to 2005 ② the PS 3917 forms on disciplinary issues issued by Mr G. Prokopa to the clerks in LBPO, when Mr G. Prokopa was a delivery supervisor in LBPO. because these documents are the necessary evidence to support my complain and will be used in my further motion on the response to the defendants motion. (The detail explanation is in my attached paper "the reason for this motion".

WHEREFORE, I respectfully request that the court grant the within motion, as well as such other and further relief and may be just and proper.

Sworn to before me this  
day of 07/11, 2007

print your name

OR: I declare under penalty of perjury that the foregoing is true and correct.

Executed on 07/11/2007


print your name

The reason for this motion 07/11/2007 by BEN SONG

In this motion, I request a court-notice to compel the defendant to present the necessary documents to me, or to the Court if the document is confidential to me now. Such documents includes (1) The W-2 forms, or the earnings statements (PS form 1023-B), or any kind annual statistical information about Wage, work hours, overtime work hours of each clerk in Long Beach post office (LBO) from 1997 to 2005 (2) the PS 3971 form or disciplinary issues issued by Mr G Prekopa to clerks in LBO, when Mr. G prekopa was a delivery supervisor in LBO. In the affirmation of the motion I said these documents are the necessary evidences to support my complaint and will be used in my further motion, or the response to the defendant's motion. Now I am explaining the reason:

In the attached paper "appellants brief to EEOC by Ms. Dawei Jongsun, 259 on 10/01/2004, Ms D Jongsun (attorney) being assigned less work hours." "Appellant was again treated differently by supervisor Mr G Prekopa ..... supervisor Mr G prekopa demanded appellant to fill out a form 3971 to report his lateness ..... supervisor Mr. G Prekopa insisted on his unreasonable order. No other clerks were required by Supervisor Glenn except Appellant." ..... as the fact of discrimination and retaliation from LBO to me.

In the attached paper "general facts of discrimination and Retaliation from 1997 to 2001" to the motion of consolidate two case in one on 04/28/2006. I complain, the facts of discrimination and Retaliation from LBO to me. It includes fact (6) (on page 1) and fact (1) (on page 1) to  
related to Form 3971  
related to Wage n Work hours

So the W-2 form and PS 3971 are the basic evidences for my complaint. Then In my paper "Plaintiff's first set of interrogatories and Requests

for documents on 12/02/2006. I requested every clerk's W-2 form and Tax statements of LBPo or the annual statistical information of overtime or V time working hours of every clerk of LBPo from 1991 to 2006, and the form 3971 (PS) related to attendance issues by MG proba when he worked in LBPo as carries supervisor and the other documents.

All of those reasonable requests was objected by defendant by the defendant's letter to me on 03/08/2007

on 03/28/2007

For my discovery right. I wrote a letter to Judge Katz. I asked Judge Katz to help me to get some information from defendant. I requested again I need the annual statistical information of overtime or V time work hours of every clerk in LBPo from 1997 to 2006 and W-2 Wage form of every clerk from 1997 to 2006. also I asked the 3971 form or disciplinary issues issued by Mr. G Prokopa to the clerk in LBPo. When Mr. G Prokopa was a defense supervisor in LBPo. I sent the copy of this letter to defendant too. In response letter from defendant on 04/06/2007. Mr. M L Schwartz said "the government initially objects to these documents ..... We continue to object to any request for W-2 forms to all postal clerks. Such information is private, and totally irrelevant to Mr. Suj's claims which do not concern his salary." Here Mr. Schwartz's sentence is totally wrong, because In case 05 Civ 8132 and the motion of consolidation I claimed the <sup>factis of</sup> discrimination and Retaliation from LBPo to me that include my salary as Form 3971.

80% of

I also write a letter to Judge Katz on 05/17/2007. I reported the papers as the requested documents from defendant is the duplicate papers, and Mr. Schwartz played a very bad game to me and to this court. He did not send any piece of documents of annual statistical information about work hours or wage, instead. He send me more than four pieces of day by day data of work hours. We cannot get right information from these papers to judge the LBPo if they did

discrimination and retaliation in my salary or work hours.

Without the original form 3971 or disciplinary issues <sup>related to attendance</sup> issued by Mr. G perhaps to the other clerks in LBPo, We also can not judge the issue of a Form 3971 or the letters of Warning from Mr. G prebozo to me is a fact of discrimination and retaliation to me or not.

From the reasons above. I make the motion. Ben Suy

~~~~~ end ~~~~~

BZN SONG on 07/11/2007  
99-30.59 ac, apt 22 Reg P.D.  
11/1368.

RS. ① A sample of Zarnings statement (PS Form 1225-B)

the form has the info of work hours, o/v time, on the Wage.

It's easy to compare each others. every year we get >6 forms.

② A sample of ob cases that do defendant with me. it is so complaint to compare each others.

PS (J)

| 400 35-4820 B SONG |             | EMPLOYEE NAME   |       | 01696777     |                        | 02 07 24816388 |                           |
|--------------------|-------------|-----------------|-------|--------------|------------------------|----------------|---------------------------|
| PAYLOC             | FINANCE NO. |                 |       | EMPLOYEE ID  | PAY PERIOD             | SERIAL NUMBER  |                           |
|                    |             | DETAIL EARNINGS |       | GROSS TO NET |                        | LEAVE STATUS   |                           |
| WK                 | RSC/LEV     | RATE            | CODE  | HOURS        | PAY                    | THIS PERIOD    | YEAR TO DATE              |
| 2 P 05             | 46290       | 110 W           | 3200  | 71215        | GROSS PAY              | 210313         | 406992 FROM PREV YR       |
| 2 P 05             | 46290       | 110 O           | 266   | 8880         | FED TAXNS              | 15812          | 29747 EARNED THIS YR      |
| 2 P 05             | 46290       | 110 N           | 14    | 21           | STTAX/HMO <sup>3</sup> | 9039           | 17221 BAL                 |
| 1 P 05             | 46290       | 110 V           | 114   | 5074         | REIRE 8                | 1424           | 2848 USED YR              |
| 1 P 05             | 46290       | 110 W           | 4000  | 89019        | MEDICARE               | 2950           | 5718 THIS PP              |
| 1 P 05             | 46290       | 110 O           | 545   | 18193        | UN W                   | 2067           | 4134 BALANCE              |
| 1 P 05             | 46290       | 110 N           | 71    | 107          | INB800                 | 600            | 1200 SICK LEAVE           |
|                    |             | L 800           | 17804 | HP515        |                        | 6870           | 12618 FROM PREV YR        |
|                    |             |                 |       | ISP          |                        | 8902           | 17804 EARNED TILS YR      |
|                    |             |                 |       | S0SEC        |                        | 12613          | 24451 USED YR             |
|                    |             |                 |       |              |                        |                | THIS PP                   |
|                    |             |                 |       |              |                        |                | BALANCE 18084             |
|                    |             |                 |       |              |                        |                | LEAVE WITHOUT PAY THIS PP |
|                    |             |                 |       |              |                        |                | CUMULATIVE                |
|                    |             |                 |       |              |                        |                | BOND UNAPPL BAL #1 ISSUED |
|                    |             |                 |       |              |                        |                | EE I                      |
|                    |             |                 |       |              |                        |                | FLSA 4659 USPS RETIREMENT |
|                    |             |                 |       |              |                        |                | NET PAY 1500.36 2555.97   |

PS FORM 1223-B, JUNE 1985 EARNINGS STATEMENT



User ID: KY27T0

Date: 02/22/07

Report: TAC500R3 v1.4

## Restricted USPS T&amp;A Information

YrPPWk: 2004-04-2 to 2007-04-2

LONG BEACH NY

Fin. #: 35-4820

## Employee Everything Report

Time: 12:39 PM

Page: 24

YrPPWk: 2004-04-2

Weekly

Sub-Unit: 0000

| Pay Loc/Fin. Unit | 400 / 0000  | Variable EAS | N        | Annual Lv Bal. | 523.72       | FMLA Hrs  | 1685.60   |         |               |                 |               |            |          |            |           |          |
|-------------------|-------------|--------------|----------|----------------|--------------|-----------|-----------|---------|---------------|-----------------|---------------|------------|----------|------------|-----------|----------|
| Employee ID       | XXX-XX-8387 | Borrowed     | N        | Sick Lv Bal.   | 128.00       | FMLA Used | 00.00     |         |               |                 |               |            |          |            |           |          |
| Employee Name     | SONG        | B            | Auto H/L | N              | LWOP Lv Bal. | 00.00     | SLDC Used | 00.00   |               |                 |               |            |          |            |           |          |
| Job               | D/A         | LDC          | Oper/Lu  | RSC            | Lvl          | FLSA      | Route #   | Fin. #  | Loaned Fin. # | Effective Start | Effective End | Begin Tour | End Tour | Lunch Amt. | 1261 Ind. | Schedule |
| Base              | 11-0        | 4800         | 5440-00  | P0             | 05           | N         | 000000    | 35-4820 |               | 2004-04-2       | 2004-04-2     | 08.50      | 17.50    | 1.00       | N         | S-MT-TF  |

Processed Clock Rings

Saturday

| Base EBR #  |       | 05200: 008.29 | 05300: 000.29 |         |        |       |             |       |  |  |  |  |  |  |  |  |                                  |
|-------------|-------|---------------|---------------|---------|--------|-------|-------------|-------|--|--|--|--|--|--|--|--|----------------------------------|
| 031-0101 BT | 01/31 | 08.35         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00 (W)NonScheduled Begin Tour |
| 000-0000 OT | 01/31 | 08.50         | 35-4820       | 5440-00 | 000000 | 00.29 | XXX-XX-5264 | 02/02 |  |  |  |  |  |  |  |  | 00.00                            |
| 031-0101 OL | 01/31 | 12.95         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00                            |
| 031-0101 IL | 01/31 | 13.81         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00                            |
| 031-0101 ET | 01/31 | 17.50         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00                            |

Monday

| Base EBR #  |       | 05200: 008.28 | 05300: 000.28 |         |        |       |             |       |  |  |  |  |  |  |  |  |                                |
|-------------|-------|---------------|---------------|---------|--------|-------|-------------|-------|--|--|--|--|--|--|--|--|--------------------------------|
| 000-0000 OT | 02/02 | 08.50         | 35-4820       | 5440-00 | 000000 | 00.28 | XXX-XX-5264 | 02/03 |  |  |  |  |  |  |  |  | 06.77                          |
| 031-0101 BT | 02/02 | 08.50         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00                          |
| 031-0101 OL | 02/02 | 12.50         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00                          |
| 031-0101 IL | 02/02 | 13.50         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00                          |
| 031-0101 ET | 02/02 | 17.78         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00 (W)NonScheduled End Tour |

Tuesday

| Base EBR #  |       | 05200: 008.10 | 05300: 000.10 |         |        |       |             |       |  |  |  |  |  |  |  |  |                                |
|-------------|-------|---------------|---------------|---------|--------|-------|-------------|-------|--|--|--|--|--|--|--|--|--------------------------------|
| 031-0101 BT | 02/03 | 08.48         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00                          |
| 000-0000 OT | 02/03 | 08.50         | 35-4820       | 5440-00 | 000000 | 00.10 | XXX-XX-5264 | 02/04 |  |  |  |  |  |  |  |  | 06.70                          |
| 031-0101 OL | 02/03 | 12.67         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00                          |
| 031-0101 IL | 02/03 | 13.69         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00                          |
| 031-0101 ET | 02/03 | 17.60         | 35-4820       | 5440-00 | 000000 |       |             |       |  |  |  |  |  |  |  |  | 00.00 (W)NonScheduled End Tour |

Thursday

| Base EBR #  |       | 05200: 008.00 |         |         |        |  |  |  |  |  |  |  |  |  |  |  |       |
|-------------|-------|---------------|---------|---------|--------|--|--|--|--|--|--|--|--|--|--|--|-------|
| 031-0101 BT | 02/05 | 08.51         | 35-4820 | 5440-00 | 000000 |  |  |  |  |  |  |  |  |  |  |  | 00.00 |
| 031-0101 OL | 02/05 | 12.75         | 35-4820 | 5440-00 | 000000 |  |  |  |  |  |  |  |  |  |  |  | 00.00 |
| 031-0101 IL | 02/05 | 13.76         | 35-4820 | 5440-00 | 000000 |  |  |  |  |  |  |  |  |  |  |  | 00.00 |
| 031-0101 ET | 02/05 | 17.57         | 35-4820 | 5440-00 | 000000 |  |  |  |  |  |  |  |  |  |  |  | 00.00 |

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

X

BZN SONG  
USPS Clerk

## **AFFIRMATION OF SERVICE**

-against-

John E. Potter  
postmaster general  
USPS New York area

05 Civ. 8132 (LAK) (THK)  
06 Civ 904 (LAK (THK))

I

BZN

SONG

I, DEN SWO, declare under penalty of perjury  
that I have served a copy of the attached the notice of motion to compel.

upon US assistance attorney Mr. M.L. Schwartz (Southern District)  
whose address is 86 Chambers, 3<sup>rd</sup> FL  
New York, New York 10007

DATED: 07/11/2007, New York

, 2007

Ben Sigs

### Signature

99-30.59 ac aft 21

## Address

Rago Park, NY 11368

City, State & Zip Code